Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
Request for Comment on	)	ET Docket No. 02-135
Issues Addressing Spectrum Policies	)	DA 02-1311

COMMENTS OF ATX TECHNOLOGIES, INC

ATX TECHNOLOGIES, INC.

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ATX Technologies, Inc. ("ATX") hereby submits these Comments in the matter of the Federal Communications Commission's (the "Commission" or "FCC") Spectrum Policy Task Force Seeks Public Comment on Issues Related to Commission's Spectrum Policies, ET Docket No. 02-135 (Released June 6, 2002).

Summary

Optimum use of the spectrum does not emanate solely or even directly from market use solutions. There are a number of critical communications policy objectives articulated in the Communications Act of 1934, as amended, that do not lend themselves to implementation through market oriented policies and in many cases experience has demonstrated that market forces would defeat these goals. The most notable example of this would be the FCC's own E9-1-1 mandate, which seeks to impose a public benefit that the wireless device market has failed to address. Fidelity to the public interest encompasses not only understanding the benefits of market based solutions, but where such solution will not work. It requires a comprehension of the important policy initiatives that do not evolve from the Commission but converge in how it manages the spectrum.

ATX

ATX is a provider of telematics services, most notably automatic collision notification, to automobile manufacturers (original equipment manufacturers or "OEMs"). Telematics services provided by ATX integrate wireless communications, location technology, computer technology and the availability of live operators to provide

emergency response and other needs to customers who have telematics capability in their vehicle. At the heart of ATX's technology is the ability to locate precisely the individual confronted with an emergency, to communicate with the vehicle and its occupants, to provide assistance to that individual, and to notify public safety agencies where that individual is so that help can be dispatched.

The cornerstone of ATX's telematics services is automatic crash notification ("ACN") and Mayday response services, which rely upon analog cellular networks to transmit critical data and open a voice channel between the vehicle and an ATX call center. Similar to the safety benefits provided by standard factory installation of seat belts and air bags, telematics-based ACN/Mayday systems represent the latest generation of in-vehicle safety technology. The ACN service automatically notifies a private telematics call center, such as ATX's, that a vehicle's air bag or emergency-tensioning restraint has been deployed. Similarly, "Mayday" service signals the call center when the motorist pushes an in-vehicle emergency call button. Currently, ATX alone has over 400,000 subscribers and receives nearly 90,000 signals per month from motorists with telematics-equipped vehicles. There are approximately 2.5 million vehicles on the road today with telematics systems. In addition, ATX and other telematics service providers offer other location-based, hands-free, safety-related services such as navigation, roadside assistance, real-time traffic reports and remote vehicle diagnostics which require broad coverage and rely on analog voice technology.

The Public Safety Purposes and Uses of the Spectrum Cannot Be Pursued Through Solely Market Oriented Policies

Two pages of the Public Notice address Market-Oriented Allocation and Assignment Polices. The premise appears to be that market oriented policies foster more

flexible use of the radio spectrum so that it may be put to its best and highest value use. ATX agrees that market-oriented management structures have an important role in bringing services to the public. It should however be but one element in managing the spectrum. ATX disagrees that market oriented policies must prevail and pervade the Commission's policies. The challenge to the Commission is much more difficult for it must integrate the benefits that flow from market oriented policies with a realization that a number of critical goals of the Communications Act would be precluded by fidelity to market driven solutions.

ATX built its ACN technology and service around the analog cellular network. From this core, an emergency MayDay Response Capability, Remote Vehicle Diagnostics and Stolen Vehicle Recovery capability can be placed in a vehicle. In terms of public policy goals, the investment of OEMs, ATX and its competitors replicates the Commission's pursuit of bringing location capability to wireless phones, yet with private investment and without government mandate. Today, there are more vehicles in the United States equipped with wireless location and communications ability than there are wireless phones.

The current analog network provides near ubiquitous wireless communication capability for both voice and data throughout the United States. It is the "glue" holding wireless communications together across the country. Large areas of the country are serviced solely by analog networks and will remain so for the foreseeable future. In contrast, digital networks fall far short of providing nationwide ubiquity. In addition to millions of telematics equipped vehicles, more than 20 percent of wireless subscribers depend on analog service all the time. ATX has submitted to the Commission a white

paper addressing the critical elements of moving from the analog to digital environment so that these robust and innovative applications and services continue to flourish. A copy is attached.[1]

At the FCC, ATX, its competitors, OEMs, and a number of carriers, have advocated strongly the enormous vehicle and highway safety benefits that have emerged from an analog network of adequate capacity, while the emerging digital networks are unable to immediately replicate this capability. These are fundamental vehicle and highway safety issues that are inextricably tied to managing the spectrum consistent with the public interest. This position has been met by strident advocacy to eliminate the present requirement to maintain an analog network and to allow market forces to determine the future provision of ACN services in automobiles.[2] The advocates make no representation about how market forces can replicate the vehicle and highway safety benefits of current rules.

ATX presents this example to demonstrate the Commission's obligation to comprehend that a range of critical public policy goals cannot be effectuated by market forces alone and that it has a much higher and more difficult responsibility. The value of the example is heightened because the technology and services ATX and others offer parallel the Commission's mandate that wireless carriers provide location information when a caller dials 9-1-1. The Commission, echoing its decision when it made the same requirement for wireline services, embraced the fundamental that market forces will not

[1] Letter to the Honorable Michael Powell, Chairman, Federal Communications Commission, dated April 3, 2002, set forth in FCC Docket 01-108.
[2] See Comments and *Ex Parte* Submissions in *In the Matter of Year 2000 Biennial Review of Part 22*, Docket No. 01-108.

provide timely rollout of location based services that are crucial in reducing emergency response and saving lives.

ATX believes sincerely that in the context of the Commission's Biennial Review of Part 22, the inquiry to be made is whether those advocating substituting market forces by a flash cut elimination of AMPS, instead of through a reasoned transition, offer a substitute now or in the future to the broad reach of Automatic Crash Notification technology that is saving lives and reducing serious injuries on the nation's highways today. The telematics technology now found in 2.5 million vehicles, which evolved without government mandate, reflects a tangible vehicle/highway safety capability based on the ubiquitous wireless infrastructure in place today. A flash cut elimination of AMPs does not reflect market forces at work but merely a change in government policy. It is in such circumstances that ATX believes the Commission should make a substantive inquiry as to the results of its decisions, and not merely accept the purported merits of market forces.

For motorists, location-based telematics provide immediate communication and position information in emergency situations, continuous monitoring of vehicle performance and hands-free access to enhanced driving conveniences – e.g., directions or information about the proximity of traffic congestion, traffic incidents or adverse road conditions – based on the vehicle's actual location. For vehicle manufacturers, telematics technology provides precise and current information regarding their vehicles' operating performance. And for transportation officials, the technology provides a platform for better managing the Nation's highway infrastructure through collection of real time,

location-based information regarding traffic incidents, adverse road conditions and congestion.

Telematics is one of the first tangible results of a larger federal transportation policy to promote intelligent transportation systems. Telematics emanates from private investment decisions premised on rules the FCC put in place. Its benefits now reflect important transportation policy goals, pursued diligently by the federal and state governments. The FCC must not only be cognizant of, but not frustrate such initiatives by introducing uncertainty under the guise of market oriented policies. Inherent in the responsibility to manage the spectrum is integrating the range of important public policies that converge in the use of the spectrum.

Conclusion

The Commission has a difficult and pervasive challenge in administering the radio spectrum. ATX urges the Commission to acknowledge forthright that the balance struck is not among various market oriented policies or even the Commission's own generated policies. Any number of objectives, much less fundamentals of the Communications Act of 1934, as amended, such as public safety, are best promoted by clear embrace of the objective and not blind fidelity that market forces will somehow accomplish it .

Respectfully submitted,

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Certificate of Service

A copy of the foregoing Comment of ATX Technologies, Inc. has been forwarded by First Class mail to:

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The necessary copies have been provided to the Commission's Secretary by delivery to the Commission off site facility.

John E. Logan

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